

Appl. No. 10/719,962
Amdt. Dated 04/06/05
Reply to Office Action of 01/24/05

Remarks/Arguments

Applicant would like to thank the examiner for the thorough review of the present application. Applicant has amended the specification to provide the proper antecedent basis for the claimed subject matter as helpfully noted on page 3 of the examiner's Detailed Action. Independent claims 1, 7, and 12 have been amended to delete the phrase "and foldable thereover." Please cancel FIG. 6.

Applicant acknowledges the present claim amendments are submitted after the Final Office Action and the examiner is not required to consider such amendments.
However, Applicant respectfully requests the examiner to consider the present claim amendments because the present application is now in condition for allowance (see MPEP). Applicant believes it is unnecessary for the Applicant to file a Request for Reexamination because it would cause unwarranted delays and expense for the Applicant, which can be avoided by reviewing the present remarks hereinbelow and claim amendments.

The examiner has rejected claims under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 2,264,314 to Johns. The examiner' broad interpretation of Johns' collar 22, 31, 32 is unreasonable and improper under the principles set forth by the MPEP. A customary and normal definition of "collar", as recited in applicant's claims, is clearly defined and distinguished from Johns' hood 22. Although the examiner refers to item 21 of Johns as reading on Applicant's claimed flap, the specification of Johns refers to item 21 as a collar (see col. 2, lines 20-22, 42 and 49). Applicant maintains the examiner has mischaracterized the Johns reference because both Merriam Webster's definition (see enclosed document) and Johns' teachings contradict the examiner's overly broad interpretation of Applicant's claimed collar and flap, respectively.

The examiner further asserts Johns' hood (see Fig. 1, item 22) includes a collar portion extending upwardly from the top edge of the body and surrounding a wearer's neck. Applicant maintains it is not reasonable for the examiner to argue Johns' hood includes such a collar portion when the hood is unitary. Applicant's independent claims 1, 7, and 12 clearly recite a "collar member", not a "collar portion," and therefore require the collar to be a separate element of the invention, not a portion of another element.

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Applicant believes the examiner has further mischaracterized Johns' flap as extending downwardly over the fastening mechanism, not upwardly as required by Applicant's independent claims.

Furthermore, neither Johns nor any prior art of record discloses a garment including a collar and a flap for covering the attaching mechanism, as claimed by Applicant's present amendments. The flap of the present invention is capable of covering the attaching mechanism when the collar is attached to the garment (see amended independent claims). However, Johns' "flap" (item 21) can not cover the attaching mechanism when Johns' "collar" (hood, item 22) is attached because Johns' flap 21 is positioned interior of its hood 22 and its attaching mechanism (see col. 2, lines 21-23). Therefore, Johns does not teach applicant's presently amended claims.

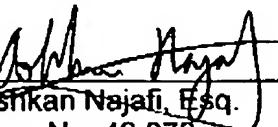
In view of these considerations, it is respectfully submitted that the rejection of the original claims should be considered as no longer tenable with respect to the currently amended independent claims 1, 7, and 12. All pending dependent claims necessarily include the recitations of their independent claims and therefore are also in condition for allowance.

Should the examiner consider necessary or desirable to make formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by examiner's Amendment, if the examiner feels this would facilitate passage of the case to issuance. Alternatively, should the examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned attorney.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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By _____


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